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RESOLUTION OF THE BOSTON REDEVELOPMENT AUTHORITY
RE: FINAL DESIGNATION OF BOSTON HOUSING AUTHORITY
APPROVAL OF FINAL WORKING DRAWINGS AND SPECIFICATIONS
AND PROPOSED DISPOSITION OF PARCELS 9, 10, 11, 12, 13, 14, 26
AND 27
IN THE KITTREDGE SQUARE URBAN RENEWAL AREA
PROJECT NO. MASS. R-167

WHEREAS, the Boston Redevelopment Authority, (hereinafter referred to as the "Authority"), has entered into a contract for loan and capital grant with the Federal Government under Title I of the Housing Act of 1949, as amended, which contract provides for financial assistance to the hereinafter identified project; and

WHEREAS, the Urban Renewal Plan for the Kittredge Square Urban Renewal Area, Project No. Mass. R-167, (hereinafter referred to as the "Project Area"), has been duly reviewed and approved in full compliance with local, state and federal laws; and

WHEREAS, the Authority is cognizant of the conditions that are imposed in the undertaking and carrying out of the urban renewal projects with Federal financial assistance under said Title I, including those prohibiting discrimination because of race, color, sex, religion or national origin; and

WHEREAS, the Boston Housing Authority has expressed an interest in and has submitted a satisfactory proposal for the development of Disposition Parcels 9, 10, 11, 12, 13, 14, 26 and 27 in the Kittredge Square Urban Renewal Area; and

WHEREAS, the Authority is cognizant of Chapter 30, Sections 61 through 62H of the Massachusetts General Laws, as amended, with respect to minimizing and preventing damages to the environment:

NOW, THEREFORE, BE IT RESOLVED BY THE BOSTON REDEVELOPMENT AUTHORITY:

1. That the Boston Housing Authority be and hereby is finally designated as Redeveloper of Parcels 9, 10, 11, 12, 13, 14, 26 and 27 in the Kittredge Square Urban Renewal Area.
2. That it is hereby determined that the Boston Housing Authority possesses the qualifications and financial resources necessary to acquire and develop the land in accordance with the Urban Renewal Plan for the Project Area.
3. That disposal of said parcels by negotiation is the appropriate method of making the land available for redevelopment.

4. That the Final Working Drawings and Specifications submitted by the Boston Housing Authority for the development of Parcels 9, 10, 11, 12, 13, 14, 26 and 27 conform in all respects to the Urban Renewal Plan for the Project Area, and that said Final Working Drawings and Specifications be and hereby are approved.

5. That it is hereby found and determined that the proposed development will not result in significant damage to or impairment of the environment and further, that all practicable and feasible means and measures have been taken and are being utilized to avoid or minimize damage to the environment.

6. That the Director is hereby authorized for and in behalf of the Boston Redevelopment Authority to execute and deliver a Land Disposition Agreement and Deed conveying Parcels 9, 10, 11, 12, 13, 14, 26 and 27 to the Boston Housing Authority, said documents to be in the Authority's usual form.

7. That the Secretary is hereby authorized and directed to publish notice of the proposed disposal transaction in accordance with Section 105(E) of the Housing Act of 1949, as amended, including information with respect to the "Redeveloper's Statement for Public Disclosure". (Federal Form H-6004)



MICHAEL S. DUKAKIS
GOVERNOR

WILLIAM G. FLYNN
SECRETARY

The Commonwealth of Massachusetts
Department of Community Affairs

One Ashburton Place

Boston, Mass. 02108

November 16, 1978

Mr. Robert Ryan
Director
Boston Redevelopment Authority
City Hall
Boston, MA 02110

RE: KITTREDGE SQUARE, 705-1

Dear Mr. Ryan:

The Chapter 705 component of the Highland Park Neighborhood Improvement Program (NIP) is now approaching a critical stage in its development. The final edition of the construction documents and specifications is in preparation and will be ready for bidding next week. In addition, the Boston Housing Authority, RAP, and the Department have been formulating a management plan for the 705 units which is sensitive to the needs of the surrounding area. That plan is nearing completion, and any outstanding issues should be easily resolved before the units are ready for occupancy eighteen months hence.

Bearing this in mind, I hope that you will find it possible to request the final designation of the Boston Housing Authority as developer of the subject parcels. Such a designation is necessary before the project can be publicly bid. As I am sure you can appreciate, delay in bidding such a project can be very costly.

Thank you for your cooperation.

Sincerely,

Peter Epstein
Director
Office of Local Development

PE/pac

CONTRACT FOR FINANCIAL ASSISTANCE

by and between

THE COMMONWEALTH OF MASSACHUSETTS

(Acting by and through the Department of Community Affairs)

and

Boston Housing Authority

State Aided Housing Project, Boston 705-1

This CONTRACT made as of MAR 15 1977, by and between the Commonwealth of Massachusetts (hereinafter called the "Commonwealth"), acting by and through the Department of Community Affairs (hereinafter called the "Department"), pursuant to and by virtue of the powers conferred by General Laws (Ter. Ed.) chapters 23B and 121B, as amended, (said chapter 121B is hereinafter called "chapter 121B) and Boston Housing Authority, (hereinafter called the "Authority") a public body, politic and corporate, duly organized and existing pursuant to chapter 121B, section 3.

WITNESSETH THAT:

WHEREAS, the Authority proposes to develop and administer, pursuant to sections 34-36 inclusive, of said chapter 121B, a project to provide housing for persons of low income in Boston within the Commonwealth, said Project to consist of approximately 30 dwelling units, which Project is more fully described in the Application for Financial Assistance by the Authority dated May 17, 1974, filed with the Department (hereinafter called the "Application"), and which Project includes such changes therein (whether in the number of dwelling units provided thereby or otherwise) as may from time to time be approved by the Department, and which Project as so changed is designated as State Aided Housing Project Boston 705-1 (hereinafter called the "Project"); and

WHEREAS, the Department has approved the Application.

NOW THEREFORE, in consideration of the mutual covenants and conditions herein contained and for other good and valuable consideration, the parties hereto hereby mutually covenant and agree as follows:

1. State Financial Assistance. The Commonwealth will subject to the terms and conditions hereinafter set forth, provide state financial assistance in the form of (i) the guarantee, by the Commonwealth of the notes of the Authority issued to temporarily finance the cost of the Project (hereinafter called, respectively, the "notes",) including notes issued to refund such notes; and (ii) a grant or grants by the Commonwealth to the Authority of funds to pay such costs or to retire the principal and interest on such notes.

a. Guarantee by the Commonwealth. The Commonwealth agrees to guarantee to the bearers or registered owners of notes of the Authority, the punctual payment of the principal of and the interest on all such notes issued with respect to the Project, as the same shall become due and payable, provided, however, that the total amount of such notes or bonds outstanding at any one time shall not exceed the maximum development cost as hereinafter defined nor the amount of grant remaining to be made hereunder. In case of the failure of the Authority to make any payment of either principal or interest as the same shall become due, the Commonwealth agrees to make such payment punctually and hereby pledges its full faith and credit for the performance of the foregoing guarantee, provided, however, that the total amount of notes so guaranteed shall not exceed the maximum amount as may be permitted by Chapter 121B, as it may be from time to time amended in the aggregate for all projects for elderly persons of low income constructed under said Chapter 121B, as it may be so amended, exclusive of any such notes which may be issued for refunding purposes. Such guarantee shall be executed on each such note in substantially the following form:

GUARANTEE

The Commonwealth of Massachusetts, for a sufficient and valuable consideration, receipt of which is hereby acknowledged, and pursuant to the power conferred upon it by law, hereby unconditionally guarantees to the bearer or registered owner of this note and to the Fiscal Agent under the resolution referred to therein, as trustee for such bearer or registered owner, the punctual payment, in all respects in accordance with the provisions of said note and said resolution of the principal thereof and the interest thereon as the same shall respectively become due and payable, and, in case of the failure of the _____ Housing Authority to make any such payment of either principal or interest as the same shall become due and payable, the Commonwealth of Massachusetts hereby agrees itself to make such payment punctually and hereby pledges its full faith and credit for the performance of this guarantee.

IN WITNESS WHEREOF, THE COMMONWEALTH OF MASSACHUSETTS has caused this guarantee to be executed in its name and on its behalf by the Secretary of the Executive Office of Communities and Development hereunto duly authorized, as of the date of said note.

THE COMMONWEALTH OF MASSACHUSETTS

By _____

The Commonwealth agrees that the total amount of such notes guaranteed by the Commonwealth, including those herein guaranteed, exclusive of any such notes which may be issued for refunding purposes, shall not exceed the maximum amount permitted by said chapter 121B, as amended.

The amount of notes issued hereunder and the periods during which such notes may remain outstanding shall be as provided in said chapter 121B as amended.

b. Grant by the Commonwealth. The Commonwealth will make to the Authority a grant or grants of money in total amount not to exceed the development cost of the Project. Such money shall be used only to pay items properly chargeable to the development cost of the Project, as approved by the Department, or to reimburse the Authority, with the approval of the Department, for payments theretofore properly made for or on account of such development cost or to pay the principal and interest on notes theretofore issued pursuant to this contract and then unpaid. In the discretion of the Department, a grant or grants as aforesaid shall be paid to the Authority (i) when needed to retire notes issued pursuant to this contract within the limits set forth in chapter 121B, as amended; (ii) against evidence satisfactory to the Department that amounts properly chargeable to the development cost of the Project are due and payable or have been paid from other funds or are about to become due and payable; (iii) to create a reasonable reserve in the Authority for the payment of amounts properly chargeable to the development cost of the Project and expected to become due within a period designated by the Department; or (iv) any combination of (i), (ii) and (iii).

The Commonwealth agrees that it shall not contract to make grants in an amount which would exceed the maximum amount permitted by chapter 121B, as amended.

(c) Duration of State Financial Assistance. Notwithstanding the fact that guaranteed notes issued hereunder may be retired and that grants made hereunder may be made in one or more advances during the development of the Project, state financial assistance on account of said Project shall, in accordance with chapter 121B, be deemed to be continuing for a period of forty years from the date of completion of the Project and during such period this contract shall remain in full force and effect.

2. Development Cost of Project. The cost of construction and development of the Project (hereinafter called "actual development cost"), shall not exceed the aggregate principal amount of One Million and Seventy Two Thousand Dollars (\$1,072,000) (hereinafter called "maximum development cost"). If the Department shall, in its sole and absolute judgment, determine that the actual development cost of the Project as planned will exceed the maximum development cost, the Authority agrees to reduce forthwith the scope of the Project to the extent and in a manner satisfactory to the Department so that the actual development cost will not exceed the maximum development cost. If the Department shall, in its sole and absolute judgment, determine that the actual development cost will be less than the maximum development cost, it shall certify to the Authority such revised development cost of the Project, and such revised development cost shall thenceforth constitute the maximum development cost of the Project under this contract. In any event, the Authority agrees that it will develop the Project at the lowest practicable development cost. The Authority will furnish to the Department, at such time or times as it may require, an analysis of the actual development cost of the Project breaking down all costs of the Project in such manner as the Department may from time to time prescribe.

3. Notes of the Authority. The Authority agrees to authorize the issuance of its notes by such note resolutions as the Department shall prescribe, and to authorize and issue notes in such amount as may be necessary for the temporary financing of the development of the Project all as more fully hereinafter set forth; provided, however, that the total amount of such notes outstanding at any one time exclusive of any notes issued

for refunding purposes shall not exceed the maximum development cost nor the amount of the grant remaining to be made hereunder. The Authority shall not sell, or offer for sale, any of such notes without the written approval of the Department approving the form of such notes, the amount and the term or terms thereof, the time of opening of bids or of sale, and any other conditions of the sale thereof. The Department will not give the approval set forth in the preceding sentence unless the Authority shall first have furnished him with (a) a certificate of purposes signed by the Chairman of the Authority showing in such detail as the Department may prescribe the purposes for which the proceeds of such notes will be used, (b) a statement signed by the Chairman of the Authority demonstrating to the satisfaction of the Department the need at the time for funds for the purposes and in the amounts sought, and (c) any other documents and data which the Department may require. All proceeds of any and all notes shall be deposited only in a bank or banks approved by the Department and, except as to any premiums, in accordance with a development fund agreement or agreements executed by and between the Authority and such bank or banks as are approved by the Department and in a form prescribed and approved by the Department. All such proceeds, except premiums, will be used only to pay items properly chargeable to the development cost of the Project, as approved by the Department, or to reimburse the Authority, with the approval of the Department, for payment theretofore properly made for or on account of such development cost or to pay notes theretofore issued and then unpaid. Any premium received on the sale of notes of the Authority shall, if the Department so directs, be delivered to and held in a separate account by the paying agent for such notes. The premium so held, together with any increment thereon, shall be applied solely to the payment of interest thereon as said interest falls due. If the Department does not so direct, any premium shall be available for the same purposes as the balance of the proceeds of such notes. Within the limitations contained in chapter 121B, notes may be refunded from time to time with the approval of the Department. The Authority will invite sealed bids for the sale of its notes by advertisement in a publication or publications prescribed by the Department the dates of such publication and the opening of bids to be prescribed by the Department. The Authority shall in each case reserve the right to reject any or all bids. All notes will be sold by the Authority to the highest responsible bidder therefor, as determined by the Authority and approved by the Department, provided, however, that if not more than one bid is received, or in any other case approved by the Department before or after bids are invited or received, the Authority may, with the approval of the Department negotiate a sale upon terms which the Department may deem most advantageous to the Authority, and provided further that if identical bids are received from two or more responsible bidders, an opportunity shall be given those bidders to improve their bids, and the notes shall be awarded to the highest bidder.

No notes shall be issued which, under the applicable limits of chapter 121B, cause the power of the Department to approve new projects to be limited or restricted unless the Department specifically approves in writing such notes and the application of such limits.

4. Development of Project. The Authority agrees to acquire the Project in accordance with said chapter 121B of this contract, the application as approved by the Department and the Order of Rules and Regulations of the Department as they may be from time to time in effect, unless such Orders, Rules and Regulations, such Application and the provisions of this contract not required by said Chapter 121B are waived in writing by the Department. The Authority further agrees to conform to standards established by the Department of Community Affairs after consulting with the Department of Public Health, the Department of Public Welfare and the Board of Standards, in accordance with section 40 of said Chapter 121B.

a. Acquisition of Project. The Authority agrees that it will within a reasonable time, acquire the Project in the location specified in the Application as approved by the Department; that the price for each parcel acquired by the purchase shall first have been approved by the Department, that it will not take any land by eminent domain without the prior approval of the Department, in such form as it may require, that good and sufficient title to each parcel has been or will, upon certain specified conditions, be vested in the Authority, and that all contracts in connection with such acquisition including, without limitation, contracts for title examination, survey, appraisal of land and negotiation on options or purchases shall be approved by the Department.

b. Inspection and Review. The Authority shall require that the Department and its designated representative or representatives shall be permitted, and the Authority shall permit the Department and such representatives to review all work, material, payrolls, records of personnel, conditions of employment, invoices of materials, books of accounts, and other data and records in connection with the development and execution of the Project which the Department shall require.

c. Completion. The Authority agrees that it will furnish the Department with certificates in such number and form and from such persons as it may require, that the Project has been completed free from defects of inadequacies, that the Authority has been discharged from all liability in connection with the development of the Project through the payment or setting aside of monies and that the Project is free from mechanics', laborers', materialmen, and other liens. Failure of the Authority to furnish any of the foregoing certificates shall not invalidate any of the notes theretofore issued by the Authority.

5. Administration of Project. The Authority agrees that it will enter into a management contract with an experienced and reputable management organization to change this development. The management organization, chosen by the Authority, and the terms of the management contract, shall be subject to the approval of the Department. Such contract, to which the Department shall be a party, shall give to the Department the right to terminate the management contract upon breach.

by the management organization. The Authority agrees to submit to the Department the name of the management organization that the Authority has nominated to manage the Project prior to the receipt of funds by the Authority, as authorized in this contract. Such management contract shall be signed by the Authority, the Department, and the management organization at the time of the signing of the initial construction contract.

The terms of the management contract shall, in part, provide that the management organization shall administer the Project in accordance with said Chapter 121B, as amended this contract, the Application and the Orders or Rules and Regulations of the Department as they may be from time to time effect, (unless such Orders, Rules and Regulations, such Application and the provisions of the contract not required by said Chapter 121B are waived in writing by the Department). The Authority, and the management organization, shall also comply with a Management Program which the Authority shall adopt, subject to the approval of the Department.

a. Occupancy. The Project shall be administered for occupancy in accordance with section 32 and 40 of said Chapter 121B, as amended and the Rules and Regulations of the Department as amended. All rentals and any modification thereof and the form and the maximum terms of the leases of the Authority shall be subject to the approval of the Department. Eligibility standards and tests of admission, tenant selection and continued occupancy shall be those approved from time to time by the Department in accordance with said Chapter 121B and the Rules and Regulations of the Department. No applicant for tenancy and no tenant shall be subjected to any discrimination or segregation because of race, creed, religion, country or origin, ancestral origin, citizenship or political affiliation.

b. Sufficiency of Revenues. The Authority agrees that it will not operate the Project for profit. Subject to the approval of the Department, the Authority further agrees that it will establish, fix and collect rentals from tenants in the Project in accordance with the Rules and Regulations for the determination of rents in State-Aided Public Housing. This revenue

together with such annual contributions actually received by the Authority with respect to the Project and all other monies derived from or in connection with the Project from any source will be sufficient (1) to meet the expense of operation, maintenance, repair and administration of the Project, including, without limitation, the amount, if any, to be paid to the municipality in which the Project is located in lieu of taxes, cost of insurance and any other expense required to be paid by the Authority, all to the extent properly attributable to the Project (2) to create and maintain reasonable reserves for vacancy and collection losses, repairs, maintenance, renewals and replacements (including renewals and replacements of portions of the Project and equipment and furnishings), and such other reserves as may be required by the Department, and (3) to produce such additional monies or funds as the Authority shall deem proper and the Department shall approve, provided, however, that rentals shall be at no higher rates than shall be prescribed as the maximum by any provision of law then in force. The Authority shall promptly collect all rents and other income due the Project and shall promptly take the necessary steps to evict delinquent tenants.

c. Operating Budgets and Statements. The Authority agrees that it will submit to the Department for its approval its proposed operating budget for each fiscal year at least sixty (60) days prior to the first day of each such fiscal year and that it will operate the Project during such fiscal year within the total amount and in accordance with the details of the budget as approved by the Department, except as any additional amounts may be later approved by the Department, and that it will file with the Department a certified copy of the budget in the form prescribed or approved by the Department. The Authority agrees to file with the Department a quarter-annual and an annual operating statement withing twenty (20) days after the expiration of the respective periods in its fiscal year.

d. Operating Revenues and Accounts. The Authority will at all times conduct its business and affairs in such manner:

(1) that the accounts relative to the Project will be separate and distinct from all accounts of the Authority relative to any other Project or enterprise developed, administered, or engaged in by the Authority.

(2) that such portion of the office and general administrative expenses of the Authority as are fairly chargeable to the Project can be readily determined; and

(3) that all revenues, income, reserves, and funds, from whatever source, received or held by or for the account of the Authority for purpose of or in connection with the development, execution, or administration of the Project will at all times be segregated and held in funds and bank accounts separate and distinct from all other funds and bank accounts of the Authority.

The Authority covenants that no portion of any of the rents, income, reserves, or funds, from whatever sources, received or held by or for the account of the Authority for the purpose of or in connection with the development or administration of the Project or for any of the purposes of such resolutions or such bonds or notes, will be used to pay any indebtedness, obligations, or liabilities incurred by the Authority in connection with any other Project or enterprise developed, administered, or engaged in by the Authority, or for any purpose other than the payment of the indebtedness, obligations, or liabilities incurred by the Authority in connection with the Project.

All revenues, income, reserves, and funds of the Authority in connection with the administration of the Project shall be deposited only in a bank or banks approved by the Department and in accordance with an administration fund agreement or agreements, between the Authority and such bank or banks, such agreements to be in a form as prescribed by the Department. The Authority shall create and maintain such reserves and accounts as shall be required by the operating budget then in effect, and as may be required by the Department in such manner as it may prescribe.

e. Management Policies. The Authority shall maintain insurance and fidelity bonds of such kinds and amounts as may be required by the Department. The Authority shall, in each case, award any such insurance or bond to the lowest responsible bidder, after invitation for competitive bids. The form of the bid invitations and the award of any such insurance or bond shall be subject to the approval of the Department. The Authority at all times shall maintain the Project in good repair, order, and condition to assure its successful operation throughout its expected life, and, in the event of damage or destruction to the Project or any part thereof, shall promptly repair, reconstruct or restore the Project to the greatest practicable extent with the proceeds of all insurance claims and other monies available for the purpose. Whenever, in any manner whatsoever, the Project or any part thereof shall have been damaged or destroyed, or any of the dwellings in the Project shall have become unsafe or unsanitary, the Authority shall proceed promptly to establish (either by settlement approved by the Authority and Department or by litigation) and to collect all valid claims, which may have arisen against insurers or others based upon the destruction of or damage to the Project. All proceeds of such claims shall be disbursed and all repairs, reconstruction and restoration shall be undertaken only in such manner and at such time or times as shall have been approved by the Department. The Authority will not, without the prior approval of the Department, (1) award or enter into any contract for utilities or equipment, or any other contract during the management or operation of the Project by the Authority; (2) issue a contract change order in connection with any such contract; (3) perform any work or make any purchase in connection with the management or operation of the Project in excess of such sum or sums which the Department may from time to time prescribe for the respective contract involved, otherwise than by contract approved by the Department; or (4) make any expenditure in connection with the management or operation of the Project not specifically authorized in the operating budget for the respective fiscal year as approved by the Department. Personnel and procurement policies of the Authority to be administered in the administration of the Project shall be those prescribed or approved by the Department. The Authority shall pay, in lieu of taxes, an amount determined by the municipality, in accordance with the said Chapter 121B, or an amount agreed upon in advance, in accordance with the said Chapter; provided, however, that the Authority will make no payment in lieu of taxes to the municipality in which the Project is located in excess of such amount without the prior approval of the Department.

6. Encumbrance of Sale of Project. The Authority covenants and agrees that it will not, without the written approval of the Department, sell, transfer, convey, alienate, assign, mortgage, pledge, or otherwise encumber the Project, or any part thereof, or any properties used in connection therewith, (except that the Authority may lease dwellings in the Project to individual tenants in accordance with the provision of this contract), or cause, permit or suffer to be created or maintained any lien or charge thereon, and may, at the direction of the Department, execute and record such declaration of

trust or other documents satisfactory to the Secretary, as will under the laws of The Commonwealth of Massachusetts, give or purport to give constructive notice of the covenants of the Authority embodied herein.

7. Pledge by Authority of Revenues under the Contract. The Authority, with the prior written approval of the Department, may pledge or assign the whole or any part of its revenue under this Contract, including the grants to be made by the Commonwealth hereunder, to or for the benefit of the holders of notes issued hereunder.

8. Federal Financial Assistance. Upon the availability of federal financial assistance for the Project, the Authority shall, upon receipt of written notice from the Department, immediately enter into negotiations with the federal government to arrange for federal financial assistance with respect to the Project and for the termination, in whole or in part, of the state financial assistance provided for hereunder. The Department may order the Authority (a) to apply for federal financial assistance, and (b) upon obtaining the approval of the federal government therefor, to enter into a contract or contracts for federal financial assistance, and to make such arrangements as are possible to terminate, reduce or subordinate the obligation of the Commonwealth to render financial assistance hereunder, in such amount as is provided by federal financial assistance. The Authority agrees that it will promptly comply with such order or orders of the Department. No such contract for federal financial assistance or order of the Department shall in any way affect any outstanding obligations of the Authority or the Commonwealth hereunder or the rights of any holder or holders of notes. Nothing herein contained shall prevent the Authority, upon entering into a contract or contracts for federal financial assistance, from complying or agreeing to comply with applicable federal legislation and regulations. The amount of federal payments shall be used to the fullest allowable extent to meet the payment of principal and interest on all notes guaranteed by the Commonwealth. In the event that the Authority shall have entered into a contract or contracts with the federal government for federal financial assistance for the Project, and all notes shall have been paid, all obligations of the Commonwealth to guarantee notes or make grants under this contract shall terminate.

9. Enforcement of Contract.

(a) The Department may enforce any of its orders, rules or regulations or the provisions of this contract or remedy any breach of this contract by a civil action filed in the Superior Court of the Commonwealth including an action in the nature of mandamus.

(b) In the event of a breach by the Authority, of any provision of this contract, the Commonwealth, acting by the Department, may take immediate possession of the Project, and retain possession and operate the Project in the place and stead of the Authority including the receipt of grants on behalf of the Authority pursuant to the terms of this contract, and subject to all of its obligations respecting the possession and operation of the Project and the revenues therefrom, until such time as such breach shall have been corrected to the satisfaction of the Department. Any default or breach by the Authority or the taking of possession by the Department shall not in any way affect the obligations of the Commonwealth hereunder, or the guarantee by the Commonwealth of the payment of the principal of and interest on the notes or the obligation of the Commonwealth to make grants

pursuant to the terms of this contract, which shall be binding and enforceable notwithstanding any such default or breach by the Authority. Whenever a breach of this contract, whether substantial or otherwise, and whether before or after notice of the breach has been given to the Authority, has been corrected, the obligations and rights hereunder shall be reinstated and performance of this contract shall continue as if such breach has never occurred.

10. Rights of Commonwealth with Respect to Bank Accounts of Authority. The Authority will, at the time of opening any account with any bank, obtain an agreement with such bank that (1) upon the receipt of any direction from the Department, and until such direction has been revoked by the Department, no further withdrawal by the Authority shall take place, (2) that such bank will agree with the Department that the bank will forthwith comply with such direction unless and until revoked by the Department, and (3) that any withdrawal of funds, or check, signed by the Department will be honored by such bank. At any time after a direction following the default or misrepresentation of material fact, the Department may authorize the bank again to permit withdrawals by the Authority and whenever the Authority shall have made good all such defaults or corrected all such misrepresentations to the satisfaction of the Department, the Department will authorize the bank again to permit withdrawals by the Authority.

The Authority agrees that if either one or both of the following events occurs and is not corrected or remedied to the satisfaction of the Department, then the Department shall have the right to direct any bank with which the Authority maintains an account in which funds for the development or relating to the development of the Project, or any rent or revenues from the Project, or any other funds relating to the administration of the Project are deposited or held (other than any account expressly required by such resolutions to be maintained with the Fiscal Agent), to refuse to permit any withdrawals from any such account until further notice from the Department. (a) The Authority shall have defaulted in the observance or performance of any one or more of the terms, covenants or conditions of this contract or of a note or note resolution; (b) The Authority shall have made any misrepresentation of material fact in any of the certificates, reports, statements or other documents or data required to be submitted pursuant to this contract or such resolutions. In any such event, the Department shall itself withdraw funds from any such account at such times as may be necessary in order to make any expenditure properly chargeable to the Project and shall apply such funds in accordance with the applicable provisions and requirements of this contract, or of a note or note resolution.

11. Accounts, Records, Books and Audits. The Authority agrees that it will (a) maintain separate full accurate accounts, records and books relative to the Project in such manner and in such detail as the Department may prescribe, (b) grant to the employees of the Commonwealth or representatives of the Department at all times during normal business hours and as often as the Department may require full and free access to the Project and to its accounts, records and books, (c) permit the Department or any accountants or auditors approved by the Department to make periodic audits, excerpts or transcripts of the accounts and financial records of the authority, (d) furnish to the Department such financial, operating, statistical and other reports, records, statements, and documents on whatever basis as may be required by the Department and (e) furnish copies of the contracts of the Authority and other documents in the possession of the Authority as the Department may from time to time require.

12. Approval by the Department of Contracts and Payments.

The Authority agrees that all contracts, express or implied with respect to the Project, any agreement for judgement, all payments on account of any contracts for property, materials or services acquired, furnished or used in connection with the Project, whether for its development or administration, shall be subject to the approval of the Department, and that it will make no payment on account of any such contract or for any such property, materials or services except with the prior written approval of the Department or by its order or by authority of an existing written rule or regulation of the Department or by provision of a budget approved by the Department.

13. Notices and Demands. Any notice or demand permitted or required under this contract to be given or served by either of the parties hereto to or upon the other party hereto shall be in writing and shall be signed in the name of the party giving or serving the same. Such notice or demand shall be mailed by registered mail, postage and registry charges prepaid, or personally served on the Department or member or officer of the Authority. Notice shall be deemed to have been received at the time of actual service or three (3) days after the date of the mailing by registered mail properly addressed. The principal office of the Department shall be deemed to be 100 Cambridge Street, Boston, Massachusetts 02202, or such other place as the Department may designate by written notice to the Authority; and the principal office of the Authority shall be deemed to be _____ or such other place as the Authority may designate by written notice to the Department.

14. Titles of Paragraphs and Sub-Paragraphs. The titles of the several paragraphs and sub-paragraphs of this contract are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this contract.

15. Severability of Provisions. If any provision of this contract is held invalid, the remainder of this contract shall not be affected thereby; and all other parts of this contract shall nevertheless be in full force and effect.

16. Waiver or Modification. Any provision of this contract not required by Chapter 23B and 121B of the General Laws or regulations promulgated thereunder may be waived in writing by the Department. None of the provisions of this contract shall be modified or waived at any time after the sale of any of the notes issued with respect to this Project to such extent or in such manner as would impair or prejudice the rights of the holder or holders of such notes.

17. Name of Project. The Authority shall not name the Project for any living person.

18. Interest of Member of Employee of Authority. No member of the Authority shall participate in any decision relating to the Project, affecting his personal interests or the interests of any corporation, partnership, proprietorship in which he is directly or indirectly interested. No member, officer, agent, servant or employee of the Authority or of the city or town in which the Project is located, shall have any interest, direct or indirect, in any contract for property, materials, or services to be acquired by the Authority or furnished or used in connection with the project.

No member of the Authority shall be paid for his services or receive compensation as such member out of the proceeds of any of the notes and/or bonds, or the revenues, annual contributions, or other funds of the Authority, received in connection with the development or administration of the Project; provided, however, that upon approval by the Department, any such member may receive compensation for his services to the Authority and reimbursement for the actual and necessary expenses, including travel expenses, reasonably incurred in the discharge of his duties as such member in connection with the development or administration of the Project within the limits established by section 7 of Chapter 121B.

19. Members of Authority Not Individually Liable. No member or officer of the Authority shall be individually liable on any obligation assumed by the Authority hereunder, except that this provision shall not be deemed to relieve such officer or member from liability incurred in violation of the terms of this contract.

20. Press Releases and Other Promotional Material. Any and all press releases or other promotional material concerning the Project must first be submitted for the Secretary's approval before release.

21. Compliance with Regulation Pursuant to Civil Rights Act of 1964. The Authority assures the Commonwealth and the Department that it will carry out the Project in full compliance with all the requirements imposed by or pursuant to regulations of the Secretary of the Department of Housing and Urban Development effectuating Title VI of the Civil Rights Act of 1964 (78 Stat, 252) and any executive orders of the Governor of the Commonwealth, as such regulations and orders may be from time to time amended.

22. Equal Employment Opportunity. (a) In the carrying out of the Project, the Authority will not discriminate against any employee or applicant for employment because of race, creed, color or national origin. The Authority will take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, creed, color or national origin.

(b) The Authority will in all solicitations or advertisements for employees placed by or on behalf of the Authority state that all qualified applicants will receive consideration for employment without regard to race, creed, color or national origin.

(c) The Authority will incorporate the foregoing requirements in all of its contracts for Project work and the contractor must also put such terms in any subcontract he or his subcontractors may make.

(d) The Department's Rules and Regulations relating to affirmative action are hereby incorporated by reference and made a part of this contract.

IN WITNESS WHEREOF, the Commonwealth of Massachusetts acting by and through the Secretary of the Executive Office of Communities and Development and Boston Housing Authority, acting by the Chairman hereunto duly authorized by vote of the Authority, an attested copy of which is hereto attached, have executed this contract in duplicate, all as of the day and year first above written.

THE COMMONWEALTH OF MASSACHUSETTS

By William G. Flynn
Secretary
Executive Office of Communities
and Development

Housing Authority Seal

ATTEST

Arthur B. Bouchard
Secretary

BOSTON HOUSING AUTHORITY
By Samuel S. Rosow
Chairman

AGREEMENT

WHEREAS, the Boston Housing Authority (hereinafter referred to as the "Authority") is organized pursuant to the provisions of the Massachusetts General Laws, Chapter 121B, as amended; and

WHEREAS, the Authority is desirous of developing and implementing a Neighborhood Improvement Program (NIP) for low rent public housing for families in the Kitteridge Square area of Roxbury, Boston, Massachusetts (which Program is referred to herein as "705-1"); pursuant to the powers granted to the Authority by the Massachusetts General Laws, Chapter 121B, as amended; and

WHEREAS, the implementation of 705-1 requires community planning and administrative assistance in the development process that the Authority desires in order to supplement its own resources; and

WHEREAS, the Massachusetts Department of Community Affairs (hereinafter referred to as the "Department") has entered into a Contract for Financial Assistance with the Authority to provide funding for such assistance; and

WHEREAS, the Roxbury Action Program, Inc. (hereinafter referred to as the "Agent") is a community based, non-profit corporation, exempt from federal taxation, duly organized for the purpose of developing subsidized housing and providing technical assistance to public agencies; and

WHEREAS, the Agent has the expertise necessary to properly guide development activities relative to 705-1; and

WHEREAS, because of the public nature of the program, some of the development activities can only be undertaken by the Authority, notwithstanding its desire to receive assistance from the Agent; and

WHEREAS, it is the desire of the Authority, the Agent, and the Department to clarify the respective roles and specific functions of each party during the planning and development of 705-1,

NOW, THEREFORE, for the purposes set forth above and in consideration of the mutual promises of the parties hereto, the adequacy and sufficiency of which is acknowledged, the Authority and the Agent hereby agree as follows:

1. The Agent shall perform the consulting services set forth in Paragraphs 3, 4 and 5 related to 705-1. Such services shall be performed in three phases, referred to as the "Planning Phase", the "Construction Phase", and the "Initial Occupancy Phase". The Planning Phase shall commence with the execution of this Agreement, and shall terminate upon the issuance by the Authority of a Notice to Proceed to the General Contractor. The Construction Phase shall commence upon the issuance by the Authority of a Notice to Proceed to the General Contractor, and shall terminate upon issuance by the City of Boston of a Certificate of Completion. The initial Occupancy Phase shall commence with the issuance by the City of Boston of a Certificate of Completion and shall terminate upon completion of all so-called "punch list items" and the subsequent release of all monies withheld from the General Contractor.

2. The Authority shall perform the services and functions set forth in Paragraphs 6, 7, and 8 related to 705-1, in accordance with the said three phases of development.

3. With respect to the Planning Phase, the Agent shall perform the following tasks:

a. Assist, as necessary, the Authority in the acquisition of the properties to be rehabilitated which are currently owned by the Boston Redevelopment Authority.

b. Assist, as necessary, the Authority in the acquisition of properties to be rehabilitated which are currently owned privately by identifying the owner, negotiating an option on behalf of the Authority, obtaining appraisals as necessary to be paid for by the Authority, performing any necessary title searches, and assisting the Authority in acquiring clear and good title to such properties. Costs of title searches, preparation of deeds and conveyancing shall be paid for by the agent, and reimbursed by the Authority.

c. Direct the scope and order of services of the architect, and of other professionals providing services to the Authority in connection with Project No. Boston 705-1. Such direction of architectural services shall include the careful monitoring of proposed improvements recommended by the architect and of the cost of such improvements so as to assist the Authority in achieving the optimum program within the framework of the budgetary constraints established by the Department. It shall also include recommendations to the Authority relative to the need for and extent of additional professional services related to Project No. Boston 705-1.

d. Review all drawings and other related documents provided by the architect for Project No. Boston 705-1 prior to their submission to the Authority and the Department, with particular emphasis on issues relative to maintenance, upkeep, and security.

e. Make recommendations to the Authority relative to the payment of the architect for services performed under his contract during the Planning Phase.

f. Assist the Authority in the preparation of the Part II Application for Financial Assistance for submission to the Department, except for the architectural portions of such application.

g. Prepare a listing of all necessary maintenance equipment and furnishings and assist the Authority in selecting and ordering necessary dwelling equipment and furnishings.

h. Study applicable laws and regulations relative to and make recommendations to the Authority and the Department regarding affirmative action components of the construction activities.

i. Coordinate program activities with other relevant City Departments, with state and federal agencies and such neighborhood and block associations as may have an interest in the proposed improvements.

j. With respect to the community facility, determine the scope and direction of the rehabilitation efforts, guide the architect in the programming of improvements to be accomplished under Project No. Boston 705-1, coordinate design activities with related housing activities, investigate various possible methods of accomplishing the actual rehabilitation activities, and coordinate all other development activities and otherwise

within one year after the issuance by the Authority to the General Contractor of a Notice to Proceed on the housing renovation, a contract will be let for the rehabilitation activities in the community facility.

k. Assist the Authority and the architect as needed in securing any possible variances to the State Building Code which might be recommended by any of the parties.

l. Assist the Authority in its investigation of the credentials of the three low bidding general contractors after the receipt of construction bids and make recommendations as appropriate relative to the designation of a general contractor.

m. Submit montly progress reports to the Authority and the Department relative to all activities carried out in the Planning Phase.

n. Adhere to all standard operating procedures followed by the Authority for bidding and contract award, unless specifically waived.

4. With respect to the Construction Phase, the Agent shall perform the following tasks:

a. Assign a person to be construction liaison between the contractor, the Authority and the Department.

b. Make recommendations as to the Clerk of the Works, if required, to the Department as suggested by the architect or for the appropriate inspection services.

c. Make recommendations to the Authority and the Department relative to the need for and the firm(s) to provide any testing work at the site, if necessary.

d. Make recommendations to the Authority and the Department

relative to the approval of each periodical estimate for payment by the contractor.

e. Make recommendations to the Authority and the Department relative to the approval of invoices submitted by the Architect.

f. Make recommendations to the Authority and the Department relative to the need for and merit of Change Orders, and where appropriate, make requests to the contractor, the architect, and the Authority for Change Orders.

g. Attend all regularly scheduled job meetings.

h. Concur in any "field decisions" discussed at such job meetings on behalf of the Authority.

i. Prepare a complete listing of all dwelling and non-dwelling equipment to be purchased by the Authority for both the dwelling units and for the community facility.

j. Intercede in all labor disputes, if necessary, with the contractor.

k. Monitor the performance of the contractor relative to achievement of affirmative action goals.

l. Monitor the contractor relative to the payment of prevailing wages.

m. Submit monthly progress reports to the Authority and the Department.

n. Make recommendations to the Authority and the Department relative to the acceptance of units for occupancy.

o. Review and make recommendations to the Authority and the Department relative to the size and scope of any punch lists.

p. Coordinate with the Authority's Occupancy Department relative to all phases of tenant selection and assignment.

q. Adhere to all standard operating procedures followed

by the Authority for construction and tenant selection unless specifically waived.

5. With respect to the Initial Occupancy Phase the Agent shall perform the following tasks:

- a. Approve the readiness of the units for move-in.
- b. Oversee the performance of the Contractor in completing all punch list items and make recommendations to the Authority relative to the release of any and all withheld monies.
- c. Coordinate the delivery of all dwelling and non-dwelling equipment.
- d. Oversee the performance of the contractor, subcontractor, or supplier relative to rectifying all itmes covered by guarantees and warranties.

6. With respect to the Planning Phase, the Authority shall perform the following tasks:

- a. Take options on those properties owned privately.
- b. Secure the BRA designation for those properties owned by the Redevelopment Authority.
- c. Acquire the properties to be rehabilitated.
- d. Assure that all design criteria promulgated by the Department and by the Authority itself are adhered to.
- e. Monitor design activities to assure that limitations necessitated by budgeting constraints are being followed.
- f. Review all drawings and other related documents provided by the architect prior to their submission to the Department.
- g. Make payments to the architect in accordance with his contract, subject to their being recommended by the Agent.
- h. Prepare and adopt the Part II Application for Financial Assistance for submission to the Department.

- i. Secure all necessary variances to the State Building Code.
- j. Administer all bidding procedures.
- k. Administer Contract Award and Contract Signing.

7. With respect to the Construction Phase, the Authority shall perform the following tasks:

- a. Approve the Clerk of the Works, if required, or other alternate inspection services.
- b. Approve all consulting services to the architect, as required.
- c. Review, approve, expedite payment of each Periodical Estimate for Payment by the Contractor.
- d. Review, approve, and expedite payment of all Invoices submitted by the Architect.
- e. Review, and approve Change Orders for forwarding to the Department.
- f. Purchase all required dwelling and nondwelling equipment.
- g. Review for acceptance the punch list.
- h. Coordinate with the Agent relative to all phases of tenant selection and assignment.
- i. Expeditiously carry out all designated tasks.

8. With respect to the Initial Occupancy Phase the Authority shall perform the following tasks:

- a. Accept the units for occupancy upon proper inspections.
- b. Monitor the performance of the Contractor in completing all punch list items and authorize release of any and all withheld monies upon the recommendation of the Agent.
- c. Oversee the performance of the contractor, subcontractor, or supplier relative to rectifying all items covered by guarantees and warranties.

9. With respect to all phases covered in this Agreement, the Agent and the Authority agree to collaborate on all budget submissions and any other required reporting to be made to the Department.

10. Any item specified as requiring Authority review and approval shall be processed within five (5) working days after its receipt. If Board approval is required, such item shall be placed on the Board's next agenda if received three (3) days before the Board's meeting.

11. For services rendered by the agent as described above, the Authority agrees to pay the agent the sum of \$75,000 in accordance with the following payment schedule.

<u>Payment Date</u>	<u>For Period Of</u>	<u>Amount</u>
April 1, 1977	April-June, 1977	\$18,000.00
July 1, 1977	July-Sept. 1977	11,000.00
Oct. 1, 1977	Oct.-Dec. 1977	11,000.00
Jan. 1, 1978	Jan.-March 1978	9,000.00
April 1, 1978	April-June 1978	13,000.00
July 1, 1978	July-Sept. 1978	<u>13,000.00</u>
TOTAL		<u>\$75,000.00</u>

Either party may at any time request a conference for the purpose of renegotiating the amounts and/or methods of payments to the Agent. The parties agree that a representative of the Department shall participate in such a renegotiation conference.

The obligation of the Authority to make payments hereunder is subject to the receipt of funds therefor from the Department.

11. Upon request of the Authority, the agent shall submit a reasonably detailed program of work for each month included in the respective Phases of this Agreement. The Agent shall, on the 15th day of each month, submit a written report to the Authority and the Department setting forth its activities during the preceding calendar month, including a detailed description of the services performed by the agent during such month, and stating its proposed activities during the calendar month in which the report is submitted. The Authority and the agent shall provide each other and the Department with copies of all correspondence, notices, documents and communications of every type and kind relating to 705-1 within seven (7) days of receipt, except such as indicate on their face that copy has already been sent as required. All records in connection with 705-1 of which the Authority, the Department, or the Agent have custody or possession, shall be made mutually available after receipt of written notice sent at least seven (7) days in advance requesting review of all or part of such records.

12. The Authority and the Agent will proceed expeditiously and take such action as is required by law or by this Agreement where such action is reasonably requested to ensure the progress of 705-1. In the event that either party fails to take appropriate action as requested by the other, either party may request that the Department make a determination as to the reasonableness of the request. The Department shall notify the other party in seven (7) days of said request. Within seven (7) days of said notice, both parties shall submit to the Department any evidence relevant to or in connection with said request. Upon receipt of said evidence, the Department shall make a determination as to the reasonableness of the request, upon the evidence submitted to it and any other evidence the Department deems to be relevant. In the event the Department

determines the request is reasonable, the Department shall have the right to amend and/or modify the original request. Any determination so made by the Department in writing, shall be binding on both parties.

13. Nothing herein shall in any manner affect or limit the respective powers and/or discretion of the Authority and the Department. Without limiting the generality of the foregoing, nothing herein shall affect any such power or discretion, or imply an action concerning borrowing, bonding, site approval, contracts for financial assistance, the approval of architectural drawings or the award of any construction contract.

14. The Authority shall consider for engagement by it architects and other professionals from lists of candidates to be furnished to the Authority by the Contractor. Fees paid by the Authority to such professionals shall not exceed those authorized by the Department.

15. The Agent and the Authority shall each have the right to terminate this Agreement, only with the written approval of the Department. Written notice of said termination shall be given at least fifteen (15) days prior to said termination after approval by the Department; provided, however, that if this Agreement is terminated, then the Authority shall pay the Agent for all amounts due to the date of termination.

16. All notices, demands, approvals or other communications hereunder shall be made in writing and shall be deemed to have been given when (a) deposited in the United States mail, certified, with return receipt requested, postage prepaid, or (b) delivered in hand to authorized representative and for which delivery a written receipt is given. For the purposes of this Agreement, notices shall be

sent to the following addresses:

- a. Boston Housing Authority
53 State Street
Boston, MA 02109
- b. Roxbury Action Program, Inc.
10 Linwood Street
Roxbury, MA 02119
- c. Department of Community Affairs
Attention: John P. Sawyer
One Ashburton Place
Boston, MA 02202

17. The Authority and the Agent shall comply and require all parties with whom they contract to comply, with all applicable provisions of federal, state and local statutes, regulations, and other law.

18. The Agent may engage in other ventures of any nature, including without limitation the giving of technical assistance, development, ownership, and management of real property wherever located.

19. This Agreement contains the entire understanding between the Authority and the Agent and supersedes any prior understandings and agreements between and among them representing the subject matter of this Agreement.

20. None of the provisions contained herein shall in any way abridge or substitute for the normal supervisory functions of the Department.

Executed under seal as of this 6th day of JULY, 1977.

BOSTON HOUSING AUTHORITY

ROXBURY ACTION PROGRAM, INC.

BY *Patrick Donovan*

BY *Feng*

Approved by the Department of Community Affairs

BY *Ellis Goodman*

November 16, 1978

MEMORANDUM

TO: BOSTON REDEVELOPMENT AUTHORITY

FROM: ROBERT J. RYAN, DIRECTOR

SUBJECT: KITTREDGE SQUARE URBAN RENEWAL AREA
PROJECT NO. MASS. R-167
FINAL DESIGNATION OF REDEVELOPER

On November 2, 1978, the Authority tentatively designated the Boston Housing Authority as Redeveloper of Parcels 9, 10, 11, 12, 13, 14, 26 and 27 (50-56 and 60-70 Highland Street) in the Kittredge Square Urban Renewal Area. These buildings, together with 58 Highland Street, which is owned by RAP, form a row of nine (9) contiguous three-story brick structures.

The proposal submitted by the Boston Housing Authority and the Roxbury Action Program calls for the rehabilitation of the nine (9) buildings into 26 housing units comprised of 22 two-bedroom units, 2 three-bedroom units, and 2 four-bedroom units. The estimated total project cost is \$1,072,000. which includes \$100,000 for the renovation of the Marcus Garvey House in John Eliot Square as a community facility.

The financial commitment for the project is contained in the Contract for Financial Assistance by and between the Commonwealth of Massachusetts Department of Community Affairs and the Boston Housing Authority dated March 15, 1977.

The project architect, Stull Associates, has submitted a set of final plans and specifications which have been reviewed and approved by the Authority's Urban Design Department.

It is therefore recommended that the Authority adopt the attached resolution finally designating the Boston Housing Authority as Redeveloper for Parcels 9, 10, 11, 12, 13, 14, 26 and 27 in the Kittredge Square Urban Renewal Area.

ATTACHMENT

